



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

MEMORANDUM

TO: Barry E. Hill, Director, Office of Environmental Justice ("OEJ")
Office of Enforcement and Compliance Assurance ("OECA")

FROM: Theodore J. Kim, Legal Counsel, OEJ/OECA /s/ *Ted Kim*

DATE: March 1, 2007

RE: "Environmental Justice in the News" for the Week Ending March 2, 2007
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This memorandum summarizes select environmental justice news actions for the period beginning February 16, 2007 through the week ending March 2, 2007. The summary is limited to Lexis/Nexis searches conducted using the query: "(environment! w/2 (justice or racism or equity or disproportionate or disparate)) or (environment! w/25 minorit! or low***income) or (executive order 12898) or (civil right! w/25 environmental) or ("fair housing act" w/25 (environment! or zon!))." Please note that articles on international or foreign-based environmental justice issues were not included.

1. **News Items.**

The following news was particularly noteworthy:

- **"EPA Offers Financial Assistance for Communities with Drinking Water Systems," Daily News (N.Y. Feb. 27, 2007).** According to the article, the United States Environmental Protection Agency ("EPA") "is offering up to \$75,000 to nonprofit organizations to improve and protect local drinking water supplies as part of an Agency program called Environmental Justice Collaborative Problem-Solving." Under the program, projects must use the collaborative problem-solving approach to assist communities to: (1) ensure safe drinking water for residents; and (2) reduce adverse impacts of drinking water contamination on human health. EPA expects to fund two projects in Puerto Rico to community-based organizations that are non-governmental, not-for-profit organizations. Applications for the funding are due by April 13, 2007. Puerto Rico will receive funding, because it has many communities that do not receive drinking water from the Puerto Rico Aqueduct and Sewer Authority, which is the primary water supplier on the island. These communities are serviced instead by small drinking water systems, which find it difficult to

comply with the Safe Drinking Water Act and the Clean Water Act due to limited adequate financial and technical resources. These environmental and human health concerns are aggravated by human activities, such as improper disposal of household garbage.

- **“Democrats Revise Environmental Justice Bill after Grassroots Push,” Inside EPA (Feb. 23, 2007).** According to the article, Democrats in Congress “strengthened environmental justice legislation from prior draft versions by adding language that could clear the way for lawsuits alleging federal agencies’ noncompliance with environmental justice requirements.” On February 15, 2007, two companion bills were introduced in the House of Representatives and the Senate that called on EPA to fully implement Executive Order 12898. (See related article on next page). The final version of the bills “strikes a key section of Executive Order 12898 that prevents judicial review of federal noncompliance to consider environmental justice provisions. . . . By striking this section of the Executive Order, Democrats could clear the way for courts to consider whether parties have a right to sue EPA and other government agencies over any alleged environmental justice violations.” One environmental justice activist, however, believes that the bills do not go far enough.
- **“Environmental Justice Drives Push for Superfund Taxes, Strict TRI Rules,” Inside EPA (Feb. 23, 2007).** According to the article, “[k]ey congressional Democrats and environmental justice advocates are pushing to reinstate the expired Superfund taxes and reverse an EPA toxic release reporting rule as a way to address concerns that minority and low-income communities are disproportionately harmed by hazardous waste.” An upcoming report recommends that Congress reinstate the Superfund taxes and strengthen EPA’s Superfund program to better protect minority and low-income populations. In addition, Congress may address EPA’s rule loosening regulations of the Toxic Release Inventory (“TRI”), because doing so “would help protect minority and low-income communities from toxic exposure.” According to Congresswoman Hilda L. Solis (D-CA), who is sponsoring legislation to reverse the TRI rule, communities of color compose 44 percent of the population “within one mile of the polluting facilities that would have fewer protections and less information of toxic chemicals as a result of [EPA’s new TRI rule].”
- **“Access to Clean Air Unequal, Study Says,” Contra Costa Times (Feb. 21, 2007).** According to the article, a new study released on February 20, 2007, entitled “Still Toxic After All These Years: Environmental Justice in the San Francisco Bay Area,” asserted that people of color “bear an unfair burden of exposure to air pollution in the Bay Area because they make up nearly two-thirds of the population living within a mile of refineries, chemical plants, and other sources of toxic air contaminants.” The report represents an initial comprehensive attempt to demonstrate

unequal access to clean air in the Bay Area. In preparing the report, researchers “combed through census records and federal records on industrial pollution emissions to search for racial and economic trends in neighborhoods exposed to pollution that can increase risks of asthma, cancer, and heart problems. They found that Latinos, African-Americans, and Asians or Pacific Islanders make up 62 percent of those living within a mile of plants or industries that reported toxic air emissions to the federal government. Whites made up 33 percent of residents in those neighborhoods. The racial breakdown changed dramatically in neighborhoods further from the plants. Minorities made up 33 percent of the population living 2.5 miles or more from the plants, and whites made up 63 percent, the study found.”

- **“Legislation Introduced in House, Senate to Implement Clinton’s Executive Order,” Daily Environment Report (Feb. 20, 2007) at A-3.** According to the article, Congresswoman Hilda L. Solis (D-CA) and Senator Richard Durbin (D-IL) introduced companion legislation in the House and Senate on February 15, 2007 that would require EPA to fully implement Executive Order 12898. Senate Bill 642 and House Bill 1103 would codify Executive Order 12898 and require EPA to implement the recommendations of the EPA Inspector General’s Report, “EPA Needs to Conduct Environmental Justice Reviews of its Programs, Policies, and Activities,” that was issued on September 18, 2006. The Bills, which were both referred to committee, seeks to protect minority and low-income groups from pollution sources.
- **“University of Montana Professor Helps Write Major Environmental Racism Report,” US States News (Feb. 20, 2007).** The article set forth a press release from the University of Montana that announced that one of its professors, Robin Saha, has helped with “a new update of the report titled ‘Toxic Waste and Race at Twenty, 1987-2007: Grassroots Struggles to Dismantle Environmental Racism in the United States’ (‘Report’). The Report followed up a “landmark 1987 report [that] revealed how United States citizens who are minorities or poor are much more likely to have hazardous-waste facilities in their neighborhoods.” The United Church of Christ sponsored the Report, which Robert Bullard principally authored. The Report noted that although the public and policymakers are now aware of environmental justice, the situation may have become worse. The Report found “[r]acial and ethnic minorities are still concentrated near hazardous waste sites . . . [as] race continues to be a predictor of these hazardous-waste locations – an even better predictor than socioeconomic factors such as income and education.” The Report provides numerous policy recommendations, including the recommendation for legislation to provide EPA with more direction.
- **“Study Verifies More Hazardous Waste Facilities Located in Minority Areas,” US States News (Feb. 17, 2007).** The article set forth a press

release from the University of Michigan that announced that it had conducted a study that found that “hazardous waste facilities are disproportionately placed in poor, minority neighborhoods.” The study found that minorities lived in the areas where the hazardous waste facilities “decided to locate before the facilities arrived.” Paul Mohai, a professor in the School of Natural Resources and Environment conducted the study, which represents the “first known national level study that supports environmental justice scholars’ claim that hazardous waste facilities are disproportionately placed in poor, minority neighborhoods.”

- **“EPA to Open Comment Period for Draft Permit Renewal, Environmental Justice Assessment for Kettleman Hills Hazardous Waste Landfill on Feb. 20,” US Fed News (Feb. 15, 2007).** The article set forth a press release from EPA’s Region IX office that announced that it would open a 60-day comment period on February 20, 2007 for “a draft permit renewal and environmental justice assessment for the Kettleman Hills hazardous waste landfill.” The proposed permit renewal “would allow Chemical Waste Management, Inc., the parent company for the Kettleman Hills landfill, to continue storing and disposing of PCB waste at the Kettleman Hills landfill. It also limits the types of PCB waste the Kettleman Hills facility can receive. Unlike past EPA permits for the landfill, this proposed permit requires air risk analysis and includes conditions for post-closure care, two issues the draft environmental justice assessment found residents had concerns about. In light of past community concerns over environmental justice issues, the EPA drafted an environmental justice assessment, which gathers community input and examines environmental conditions and potential health impacts in Kettleman City and nearby Avenal. The EPA used the results of the draft environmental justice assessment in reviewing the permit application to help identify areas for additional evaluation, prepare proposed permit conditions, and enhance public participation.”
- **“‘Toxic Tour’ Drives Home Point of Pollution’s Effect on the Poor,” Newark Star-Ledger (N.J. Feb. 15, 2007) at 48.** According to the article, the Communities for a Better Environment (“CBE”) have conducted tours “through the industrial backstreets of [California].” These tours “are gaining popularity among policymakers, lawyers, and students who want a firsthand look at how pollution often falls hardest on poor, minority areas.” The bus tours visit places that “have been the site of environmental nightmares.” The tours are free. Last year, about 200 people took the tour, compared to just a few in 1995, when the tours began.
- **“Chief Judges Will Appear at a Supreme Event,” Times Union (Albany, N.Y. Feb. 14, 2007) at B4.** The article set forth various news tidbits, including the fact that EPA Administrator Stephen L. Johnson had appointed Patricia E. Salkin, Associate Dean and Director of the

Government Law Center of the Albany School, to the National Environmental Justice Advisory Council (“NEJAC”) for a two-year term. The NEJAC is a federal advisory committee that makes recommendations to EPA on environmental justice issues. Albany Law School credits Ms. Salkin, a “national recognized expert in land use law,” with “being a trailblazer in the area of the intersection of environmental justice and local land use planning and zoning.”

- **“Lawsuits Seek Return of Arborway Trolley,” Boston Globe (Feb. 14, 2007).** According to the article, a lawsuit was filed in Suffolk Superior Court on February 13, 2007 against, among others, the State of Massachusetts seeking to restore trolley service to the Arborway in Jamaica Plain, Massachusetts. One of the arguments in the lawsuit included “restoration of the Arborway trolley is an ‘environmental justice’ project that will help curb rising asthma rates in the City.” The trolley service was scheduled to be restored as part of a 1990 transit project; however it “was deemed too expensive over time and would have required extensive rerouting of traffic . . . to accommodate both parking and the rails.”
- **“Environmental Officials Get an Earful,” Advocate (Feb. 14, 2007) at B4.** According to the article, the Louisiana Department of Environmental Quality (“DEQ”) held a day-long conference on February 13, 2007 that “brought together community-based environmental group leaders, DEQ employees, and representatives from [EPA] and industry to talk about environmental concerns.” According to DEQ’s Office of Environmental Services Assistant Secretary, Chuck Brown, the listening session “was intended to help community groups voice their concerns and for DEQ and EPA to explain what they’re doing to respond to those concerns.” With regard to environmental justice, speakers at the conference articulated that it is “about people’s right to clean air and water, regardless of where they live, how much money they make or who they know. . . . Most of all, environmental justice is about trust.” Other speakers noted that “environmental justice means getting a voice in how state and federal agencies develop permits for industries, rather than just getting an opportunity to comment when a draft permit is presented as a public hearing.”

2. **Recent Litigation.**

- **In re: Gulf LNG Energy, L.L.C., 2007 FERC LEXIS 277, Docket Nos. CP06-12-000, CP06-13-000, CP06-14-000 (Feb. 16, 2007).** The Commission of the Federal Energy Regulatory Commission (“FERC”) authorized Gulf LNG Energy L.L.C. and Gulf LNG Pipeline L.L.C. to construct a liquefied natural gas (“LNG”) import terminal and five mile long pipeline from the proposed LNG terminal, respectively. In authorizing the requests, the Commission noted EPA’s concern that the

final Environmental Impact Statement failed to fully address “whether the proposed project would result in disproportionately high and adverse human health or environmental effects on minority populations and low-income populations.” However, the Commission believed that the final EIS provided enough information to demonstrate that the proposed project will not have a disproportionately high and adverse human health or environmental effect on low-income or minority communities. In addition, the Commission did not feel that any additional environmental justice analysis was needed. Finally, the Commission believed that the public participation opportunities for the project “were open to anyone who wanted to participate, including low-income and minority populations.”

- **In re: Bayou Casotte Energy L.L.C, 2007 FERC LEXIS 283, Docket no. CP-05-420-000 (Feb. 16, 2007).** FERC’s Commission authorized Bayou Casotte Energy LLC to site, construct, and operate a new LNG terminal in Jackson County, Mississippi. In authorizing the request, the Commission discussed environmental justice issues and noted EPA’s concern that the final Environmental Impact Statement failed to fully address “whether the proposed project would result in disproportionately high and adverse human health or environmental effects on minority populations and low-income populations.” However, the Commission believed that the final EIS provided enough information to demonstrate that the proposed project will not have a disproportionately high and adverse human health or environmental effect on low-income or minority communities. In addition, the Commission did not feel that any additional environmental justice analysis was needed. Finally, the Commission believed that the public participation opportunities for the project “were open to anyone who wanted to participate, including low-income and minority populations.”

3. **Regulatory/Legislative/Policy.**

The following items were most noteworthy:

A. **Federal Congressional Bills and Matters.**

- No noteworthy “*Federal Congressional Bills and Matters*” were identified for this time period.
- No noteworthy “*Miscellaneous House and Senate Congressional Record Mentions of Environmental Justice*” were identified for this time period.
- **Federal Register Notices.**

— **DOT, Preparation of an Environmental Impact Statement for the Berkeley/Albany Ferry Terminal Project in the Cities of**

Berkeley and Albany, California, 72 Fed. Reg. 6659 (Feb. 12, 2007). The Federal Transit Administration of the United States Department of Transportation (“DOT”) announced its intent to prepare a joint Environmental Impact Statement (“EIS”) with the San Francisco Bay Water Transit Authority (“WTA”) “for the proposed construction of a ferry terminal along the Berkeley/Albany waterfront that would link the San Francisco Ferry Terminal with communities in the East Bay. The project would serve commuters, visitors, and recreational users who desire an alternative way to cross San Francisco Bay to access nearby employment, entertainment, and recreational destinations.” The notice alerted interested parties of the intent “to prepare an EIS, to provide information on the proposed transit project, to invite participation in the EIS process, including comments on the scope of the EIS proposed in this notice, and to announce public scoping meetings will be conducted.” Comments on the EIS, which will look at, among other things, environmental justice issues, are due by March 30, 2007.

- **USDA, Highwood Generating Station, 72 Fed. Reg. 6197 (Feb. 9, 2007).** The Rural Utilities Service of the United States Department of Agriculture (“USDA”) announced the issuance of a Final Environmental Impact Statement for the Highwood Generating Station. The Final EIS was published to “evaluate the potential environmental impacts of and alternatives to the Southern Montana Electric Transmission & Generation Cooperative, Inc. (“SME”) application to USDA Rural Development for a loan guarantee to construct a 250 megawatt (“MW”) coal-fired power plant near Great Falls, Montana. SME also proposes to construct and operate four, 1.5-MW wind turbines at the proposed project site to generate supplemental electrical power.” Comments on the Final EIS, which found adverse but non-significant impacts of the Proposed Action on, among other things, environmental justice, are due by March 12, 2007.

- **HUD, Notice of Availability of a Draft Environmental Impact Statement for the East River Waterfront Esplanade and Piers Project in the Borough of Manhattan, City of New York, New York; Notice of Intent to Prepare Draft Environmental Impact Statement; Notice of Public Hearing; and Notice of Availability of National Historic Preservation Act Draft Programmatic Agreement, 72 Fed. Reg. 6253 (Feb. 9, 2007).** The United States Department of Housing and Urban Development (“HUD”) announced the availability of a Draft Environmental Impact Statement (“DEIS”) for review and comment for the East River Waterfront Esplanade and Piers Project in the Borough of Manhattan, City of New York, New York (“Proposed Action”). The Proposed Action would “improve a two mile portion of the

East River waterfront in Manhattan and create a City-owned public open space. The area of the Proposed Action would generally encompass the waterfront, the upland area adjacent to and under the elevated Franklin Delano Roosevelt Drive and South Street extending from the Whitehall Ferry Terminal and Peter Minuit Plaza on the South to East River Park on the North, as well as Pier 15, the New Market Building Pier, Pier 35, Pier 36, and Pier 42. Approximately \$139,500,000 of HUD funds will be allocated for the Proposed Action.” Comments on the DEIS, which analyzes the Proposed Action’s potential impact on, among other things, environmental justice, are due by March 19, 2007.

B. **State Congressional Bills and Matters.**

- **California, Senate Bill 240, introduced on February 14, 2007 by Senator Dean Florez (D-District 16). *Status: May be Acted Upon on or after March 17, 2007.*** The Bill, known as the San Joaquin Valley Public Health Protection and Clean Air Attainment Act of 2007, accomplishes various air related initiatives, including authorizing the San Joaquin Valley District “to adopt rules and regulations to reduce vehicle trips and air pollution from vehicular sources.” Of particular note is the fact that the Bill provides at least \$10 million to “mitigate the impacts of air pollution on public health and the environment in disproportionately impacted environmental justice communities in the San Joaquin Valley. The district board shall convene an environmental justice advisory committee, selected from a list given to the board by environmental justice groups from the San Joaquin Valley, to recommend the neighborhoods in the district that constitute environmental justice communities, and how to expend funds within these communities.”
- **California, Assembly Bill 568, introduced on February 21, 2007 by Assemblywoman Betty Karnette (D-District 54). *Status: May be Heard in Committee on March 24, 2007.*** The Bill seeks to establish a Port Community Advisory Committee to “respond to specified actions and impacts on harbor area communities.” The Bill specifies the committee’s duties and provides for funding. The Bill sets forth that funds may be used to, among other things, hire an environmental justice program coordinator.
- **Connecticut, Senate Bill 1330, introduced on February 22, 2007 by Energy and Technology Committee. *Status: Public Hearing Scheduled for March 1, 2007.*** The Bill, which concerns environmental justice, seeks to “reduce the incidence of pollution in communities that are already overburdened by environmental pollution.” The Bill defines environmental justice and calls on the Department of Environmental Protection, among others, to adopt regulations that describe its procedures

for considering environmental justice in granting licenses, permits, or authorizations.

- **Illinois, Senate Bill 1187, introduced on February 8, 2007 by Senator Don Harmon (D-District 39). *Status: Referred to Senate Rules Committee on February 8, 2007.*** The Bill creates the Global Warming Response Act and provides that the Illinois Environmental Protection Agency (“IEPA”) is the State agency charged with monitoring and regulating sources of emissions of greenhouse gases. The Bill also requires that on or before January 1, 2009, IEPA shall propose and the Pollution Control Board (“Board”) shall adopt rules to require the reporting and verification of statewide greenhouse gas emissions and to monitor and enforce compliance with the program. In addition, the Bill requires that by July 1, 2008, IEPA shall, after one or more public workshops, determine what the statewide greenhouse gas emissions level was in 1990 and propose to the Board a statewide greenhouse gas emission limit that is equivalent to that level, to be achieved by 2020. The Bill sets forth the Legislature’s intent that IEPA, in consultation with, among others, the environmental justice community, implements “the global warming pollution reduction targets . . . in a manner that minimizes costs and maximizes benefits for Illinois’s economy.”
- **Maryland, House Bill 890, introduced on February 9, 2007 by Congressman Kumar P. Barve (D-District 17). *Status: Scheduled for Hearing on March 6, 2007.*** The Bill establishes limits on emissions of greenhouse gases. In addition, the Bill requires the Department of the Environment (“DEP”) to determine the statewide greenhouse gas emissions level from 1990 and establish a statewide greenhouse gas emissions limit based on that level. The Bill also requires DEP to prepare a plan that identifies and recommends specified measures after consulting with other state agencies. The Bill establishes the Greenhouse Gas Emissions Reduction Fund and creates the Office of Climate Change within DEP. Finally, the Bill allows DEP to create and appoint advisory committees that it deems appropriate, including a committee to focus on environmental justice issues.
- **Maryland, House Bill 1034, introduced on February 9, 2007 by Congressman Nathaniel T. Oaks (D-District 41). *Status: Referred to House Health and Government Operations Committee on February 9, 2007.*** The Bill requires the Secretary of Health and Mental Hygiene to establish an Interagency Working Group to discuss environmental health concerns. In addition, the Bill provides for the membership, appointments, and duties of the Interagency Working Group. It also requires the Secretary to establish a specified pilot program that will be funded through a specified appropriation. The pilot program will also provide funding and technical assistance to specified eligible entities to

prepare specified health impact assessments. A planning and prioritizing council will also be established through the Bill, which will include a member from “vulnerable groups such as children, the elderly, disabled, and minority ethnic groups that are not actively involved in democratic or decision-making processes.”

- **Minnesota, Senate Bill 1074, introduced on February 21, 2007 by Senator Katie Sieban (D-District 57). Status: Referred to Health, Housing, and Family Security on February 21, 2007.** The Bill establishes an environmental health tracking and biomonitoring program and requires the Commissioner of Health to coordinate data collection activities with the Minnesota Pollution Control agency (“PCA”), Department of Agriculture, University of Minnesota and other relevant state agencies to promote sharing and access to health and environmental databases to develop an environmental health tracking system. In addition, the Bill specifies the Commissioner’s duties and sets forth that the Commissioner shall appoint, among others, four members with a focus on environmental justice issues.
- **New York, Assembly Bill 5038, introduced on February 12, 2007 by Assemblyman Philip Boyle (R,I,C-District 8). Status: Referred to Assembly Committee on Environmental Conservation on February 12, 2007.** The Bill amends the environmental conservation law to enact the New York Clean State and Clean City Act of 2007. The Bill addresses global warming and seeks to slow and eventually stop deterioration of the environment. Specifically, the Bill establishes a greenhouse gas emissions reduction program “to achieve the maximum technologically feasible and cost-effective greenhouse gas emission reductions from sources or categories of sources.” As part of this program, the Bill calls for the creation of an Environmental Justice Advisory Committee of at least 3 members.
- **New York, Assembly Bill 5299, introduced on February 13, 2007 by Assemblyman Keith L.T. Wright (D-District 70). Status: Referred to Assembly Committee on Environmental Conservation on February 13, 2007.** The Bill amends the environmental conservation law to create a state urban pesticide board on the application of pesticides in urban areas. Specifically, the Bill delineates the board’s functions and duties, and it requires the board to make recommendations for legislative action. The board, which should include a member from an organization focused on environmental justice issues, also shall issue a report to the Governor regarding policy reforms and enforcement measures needed to reduce the risk of pesticide use in urban areas.
- **New York, Senate Bill 2651, introduced on February 8, 2007 by Senator Kevin S. Parker (D-District 21). Status: Referred to Senate**

Committee on Environmental Conservation on February 8, 2007. The Bill amends the environmental conservation law by establishing the New York State Environmental Justice Act. The law seeks to establish procedures to “safeguard residents’ health and welfare and achieve environmental justice.” The Bill defines environmental justice and calls for the implementation of environmental justice policies. In addition, the Bill creates an Environmental Justice Task Force.

- **New York, Senate Bill 2654, introduced on February 8, 2007 by Senator Kevin S. Parker (D-District 21).** *Status: Referred to Senate Committee on Energy and Telecommunications on February 8, 2007.* The Bill amends the energy law in relation to state energy planning and amends the public authorities law in relation to the completion of an annual energy plan by the New York Power Authority and the Long Island Power Authority. Among other things, the Bill calls for the adoption of a state energy plan. Among the analysis required for the plan is an environmental justice analysis.
- **Tennessee, Senate Bill 1779, introduced on February 8, 2007 by Senator Doug Jackson (D-District 25).** *Status: Introduced.* The Bill directs Tennessee State University and Middle Tennessee State University to “continue the joint solid waste study to determine as practicable means to eliminate from the landfills food waste, yard waste, hazardous waste, chemicals, and other materials which decompose into a liquid or gas or which may make the landfill or leachate more toxic.” The Bill came about due to certain findings of an initial joint study of the two universities, which included the finding that “solid waste and landfills often inflict the poor, minority, and disenfranchised, and are issues of environmental injustice.”
- **Washington, House Bill 1601, introduced on January 24, 2007 by Congresswoman Christine Rolfes (D-District 23).** *Status: Substituted on February 15, 2007. Scheduled for Public Hearing on February 26, 2007.* The Bill creates the Children’s Environmental Health and Protection Advisory Council. The Council was created based on the finding that “higher rates of poverty place children of ethnic and minority communities at disproportionate risk for environmental exposures due to inadequate housing, poor nutrition, and limited access to health care.” The Council, which will consist of sixteen members, will address these issues and provide a report annually with recommendations to reduce children’s exposure to environmental hazards.
- **Washington, House Bill 2318, introduced on February 20, 2007 by Congressman Bob Hasegawa (D-District 11).** *Status: Referred to House Select Committee on Environmental Health. Scheduled for Public Hearing on February 27, 2007.* The Bill seeks to address

inequities in the location of facilities that “impact human health in low-income and minority neighborhoods.” Among other things, the Bill found that “[m]inority and economically disadvantaged populations are known to have poorer health status than the overall population and have higher rates of a variety of disease. People with lower socioeconomic status are more likely to live in the most hazardous environments and to work in the most hazardous occupations. While many complex factors interact to produce health disparities among minority and low-income populations, environmental and occupational exposures contribute to poorer health status. Therefore, reducing the potential for exposure to environmental health hazards from site-specific facilities is important to protect human health, safety, and the environment.” The Bill therefore specifies that “[n]o more than twenty-five of each of [certain] facilities [such as an EPA Superfund site] or conditions [such as average income level is less than fifty percent of the median county income level], as an aggregate total, may be located or exist within an area with a five-mile radius.”

- **State Regulatory Alerts.**

- **Pennsylvania, 2007 Reg. LEXIS 8820 (Feb. 17, 2007).**

Pennsylvania’s Environmental Quality Board (“Board”) set forth a final rule to establish state-specific requirements “to reduce mercury emissions from coal-fired electric generating units (“EGUs”) with a nameplate rated capacity of 25 megawatts or more that produce electricity for sale. The final-form rulemaking establishes mercury emission standards, annual emission limitations as part of a Statewide annual nontradable mercury allowance program and monitoring, recording, and reporting requirements to reduce mercury emissions from coal-fired EGUs or cogeneration units.” Among other things, the rule implicates fish consumption. Specifically, review of fish consumption literature “provides strong support that sport anglers in this Commonwealth may consume amounts of sport-caught fish that could allow them and their families to exceed health-based limits for mercury contaminants in their fish. . . . Furthermore, a review of the relevant studies suggests that there is a strong environmental justice component regarding this public health issues. Consumption rates were higher among minorities, people with low-income, and people residing in smaller communities.”